

§ 1942.7

7 CFR Ch. XVIII (1–1–05 Edition)

(1) The applicant has complied with approval conditions and closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto; and

(2) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(e) *Multiple advances of FmHA or its successor agency under Public Law 103-354 funds.* When FmHA or its successor agency under Public Law 103-354 provides loan funds during the construction period using interim (temporary) instruments described in §1942.19(g) of this subpart, the following action will be taken prior to the issuance of the permanent instruments:

(1) The Finance Office will be notified of the anticipated date for retirement of the interim instruments and issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the District Director.

(3) The District Director will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately, except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office. In developing the permanent instruments, the sequence of preference set out in §1942.19(e) of this subpart will be followed.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988; 53 FR 26589, July 14, 1988]

§ 1942.7 Loan closing.

Loans will be closed in accordance with the closing instructions issued by the OGC and §1942.17(o) of this subpart and as soon as possible after receiving the check.

(a) *Authority to execute, file, and record legal instruments.* District Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgments, and other certificates.

(b) *Preparation of mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one instrument.

(c) *Source of funds for insured loans.* All loans will be made from the Rural Development Insurance Fund (RDIF).

(d) *Unused funds.* Obligated funds planned for project development which remain after all authorized costs have been provided for will be disposed of in accordance with §1942.17(p)(6) of this subpart.

(e) *Loan checks.* Whenever a loan check is received, lost, or destroyed, the District Director will take appropriate actions outlined in FmHA Instruction 2018-D (available in any FmHA or its successor agency under Public Law 103-354 office). Checks which cannot be delivered within a reasonable amount of time (no more than 20 calendar days) will be handled in accordance with FmHA Instruction 2018-D.

(f) *Supervised bank accounts.* Supervised bank accounts will be handled under subpart A of part 1902 of this chapter.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988; 59 FR 54788, Nov. 2, 1994; 68 FR 61331, Oct. 28, 2003]

§ 1942.8 Actions subsequent to loan closing.

(a) *Mortgages.* Real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's case folder.

(b) *Notes and bonds.* When the debt instrument is a promissory note or single instrument bond fully registered as to

principal and interest, a conformed copy will be sent to the Finance Office immediately after loan closing and the original instrument will be stored in the District Office. When other types of bonds are used, the original bond(s) will be forwarded to the Finance Office immediately after loan closing.

(c) *Multiple advances—bond(s)*. When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper righthand corner of such paper by the District Office. The permanent debt instrument(s) should be forwarded to the Finance Office as soon as possible after the last advance is made except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office.

(d) *Bond registration record*. Form FmHA or its successor agency under Public Law 103-354 442-28, "Bond Registration Book," may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(e) *Disposition of title evidence*. All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed.

(f) *Material for State Office*. When the loan has been closed, the District Director will submit to the State Director:

- (1) The complete docket; and
- (2) A statement covering information other than the completion of legal documents showing what was done in carrying out loan closing instructions.

(g) *State Office review of loan closing*. The State Director will review the District Director's statement concerning loan closing, the security instruments, and other documents used in closing to determine whether the transaction was

closed properly. All material submitted by the District Director, including the executed contract documents (if required by OGC) with the certification of the borrower's attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to OGC for post-closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA or its successor agency under Public Law 103-354's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. It is not expected that facility development including construction will be held up pending receipt of the opinion from OGC. When the opinion from OGC is received, the State Director will advise the District Director of any deficiencies that must be corrected and return all material that was submitted for review.

(h) *Safeguarding bond shipments*. FmHA or its successor agency under Public Law 103-354 personnel will follow the procedures for safeguarding mailings and deliveries of bonds and coupons outlined in FmHA Instruction 2018-E (available in any FmHA or its successor agency under Public Law 103-354 office), whenever they mail or deliver these items.

(i) *Water stock certificates*. Water stock certificates will be filed in the loan docket in the District Office.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988]

§ 1942.9 Planning, bidding, contracting, and constructing. [See §§ 1942.17(p) and 1942.18]

(a) *Review of construction plans and specifications*. All plans and specifications will be submitted as soon as available to the State Office for review and comments.

(b) *Contract approval*. The State Director or designee is responsible for approving all construction contracts using legal advice and guidance of OGC as necessary. The use of a contracting method under § 1942.18(l) of this subpart exceeding \$100,000 must be concurred in by the National Office. Procurement under § 1942.18(l) of this subpart will